IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10419 of 2003
WITH
SPECIAL CIVIL APPLICATION No 10424 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

YOGENDRA JIKRUT MISHRA

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

1. Special Civil Application No. 10419 of 2003

MR KR KOSHTI for Petitioner No. 1
MS SEJAL K MANDAVIA for Respondent No. 1
NOTICE SERVED for Respondent No. 2
MR MR MENGDEY, ASST.GOVT PLEADER for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 16/01/2004

COMMON ORAL JUDGEMENT

1. Leave to delete respondent No. 2 since the main relief pertains to execution of the Recovery Certificate.

2. Rule. Mr. M.R. Mengdey, learned Assistant Government Pleader and Ms. Mandavia waives service of rule for respondents No.1 and 3 respectively.

3. The only question that arise for consideration in these petitions is, if an area is declared as "Notified area" otherwise falling within the limits of a Grampanchayat, would it continue to be under the revenue jurisdiction of the District Panchayat for the purpose of recovery of land revenue or not?

4. Short facts of the case are that the Labour Court, Surat, has passed an order of issuance of Recovery Certificates dated 18.9.1999 and 25.9.2000, which are at Annexure 'B' to the petition, in pursuance of the judgment and order dated 2.7.1999 in Recovery Application No. 71/98 and judgment and order dated 22.03.2000 in Payment of Wages Application No. 66 of 1999 whereby amounts of Rs.35,659/_ and Rs.46808/_ respectively are to be recovered from Archana Dying & Printing Mills Pvt. Ltd. and Shri Sai Ashish Dyeing & Printing Mills Pvt. Limited respectively, and both Companies are situated at GIDC, Sachin, Surat. There is also no dispute on the authority of issuance of recovery certificates by the Labour Court for recovery of the aforesaid amounts. However, it is the case of the respondent No.3 District Collector that since the area is falling within the limits of District Panchayat, the District Development Officer is the competent authority to execute the Recovery Certificates whereas the case of the District Development Officer is that since the area is declared as 'industrial area' or 'notified area' as per section 16 of the Gujarat Industrial Development Act, 1962 [hereinafter referred to as the GIDC Act], it would stand converted as urban area and the Collector will be the competent authority to recover the amount. Learned counsel appearing for the respondents No. 1 and 3 have both relied upon Government Resolution dated 11.12.2001, copy whereof is produced at page 36 of the complication of SCA No.10419/03. The fact remains that for one reason on the part of the DDO and for the other reason on the part of the Collector, the amounts as ordered by the Labour Court for recovery as the arrears of land revenue are not recovered, and, therefore, the petitioners-workmen have preferred these petitions.

5. The perusal of the Government Resolution dated 11.12.2001 makes it abundantly clear, and there is no dispute on the point, that if the area is falling within urban area, it would be falling within the jurisdiction of the Collector to recover the amount, and if the area is falling within the Panchayat area, it will be the District Development Officer or T.D.O. as the case may be, who will have power to recover the amount as per the certificate issued by the Labour Court as arrears of land revenue. However, the contention raised on behalf of the respondent No. 1 by Ms. Manadavia is that once the area is declared as 'industrial area' or 'notified area' under the provisions of the GIDC Act, though it may be forming part of a Gram Panchayat or Panchayat area, it would stand convered as an urban area, and, therefore, the District Development Officer will cease to have the authority, and it would fall within the power and jurisdiction of the District Collector since for urban area, the jurisdiction and authority is with the Collector.

6. The scrutiny of the said contention shows that as per the provisions of the GIDC Act, any area may be declared as 'notified area' as per provisions of section 16 of the GIDC Act, which reads as under:-

> "16. Notification of any industrial area as notified area under Gujarat Municipalities Act.Notwithstanding anything contained in the provisions for the time being in force relating to notified areas in the Gujarat Municipalities Act, 1963 (Guj. XXXIV of 1964) the State Government may, by notification in the Official Gazette-
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> (a). declare that the provisions relating to notified areas and any other provisions of that Act shall extend to and be brought into force in any industrial area, and thereupon such area shall be deemed to be a notified area under that Act;
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> (b). appoint the Corporation or any officer or committee thereof for the purpose of the assessment and recovery of any taxes, when imposed under the provisions so extended and for enforcing such provisions;
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> (c). provide that the provisions of any other

law relating to local authorities which is in force in that area shall cease to apply, and thereupon such provisions shall cease to apply thereto;

(d). make such other provision as is necessary for the purpose of the enforcement of the provisions so extended to that area.

7. Hence there is nothing like declaration of 'industrial area' as sought to be canvassed by Ms. Mandavia. The correct language would be 'notified area' because the same is the language of section 16 of the GIDC Act. The aforesaid provision has an over-riding effect over the Gujarat Municipalities Act, 1963. The section itself provides for appointment of Corporation or any other officer or committee for the purpose of assessment and recovery of any taxes, and clause (c) of the said section provides that the provisions of any other law relating to local authorities which is in force in that area shall cease to apply and thereupon such provisions shall cease to apply thereto. Therefore, as provided under section 16, the application of law relating to local authority will cease to apply to such area which is declared as notified area as per section 16 of the GIDC Act. Therefore, as a consequence thereof, if an area is falling within the limits of Municipality or a Gram Panchayat, the provisions of such law relating to such local authorities may cease to apply. It appears that law relating to revenue recovery such as Bombay Land Revenue Code or Industrial Disputes Act providing for recovery of the amount as arrears of land revenue, cannot be said to be law relating to local authority. Therefore, it appears that even if the area is declared as 'notified area' under section 16 of the GIDC Act, so far as revenue jurisdiction is concerned, the provisions of the Bombay Land Revenue Code would continue to apply. There is no dispute on the point that prior to the declaration of the area as 'notified area' it was falling within the revenue jurisdiction of the District Development Officer for the purpose of recovery of revenue, and, therefore, even if the area of GIDC Sachin which was otherwise falling within the limits of Panchayat would continue to be under the jurisdiction of the District Development Officer for the purpose of Revenue Recovery. I am inclined to take such a view for two additional reasons; viz. one is that the declaration of any area as 'notified area' is for the purpose of enforcement of GIDC Act, and, therefore, the law relating to local authority would cease to apply to that extent for the purpose of enforcement of GIDC Act, and not for

any other purpose, which, in the present case, is the jurisdiction to recover the land revenue. The second consideration is that there is no express delegation of power made, nor it is brought to the notice of the Court that the State has made any express delegation of power to any other authority than the Collector or the District Development Officer for the purpose of revenue recovery in the area which is declared as 'notified area' as per section 16 of the GIDC Act.

8. Therefore, the net result of the aforesaid discussion is that the area would continue to fall within the power and jurisdiction of the District Development Officer even if the area is declared as 'notified area' since otherwise the area was falling within the jurisdiction of the District Development Officer. If it is an area declared as 'notified area' from the urban area, may be otherwise falling within the limits of a Municipality or a Municipal Corporation, the jurisdiction shall continue to be with the District Collector, so will be the case for the District Development Officer so far as it relates to the area which are otherwise falling within the Panchayat area. In any case, the petitioner workmen, who are awaiting the execution of the Recovery Certificate cannot be allowed to starve until any special delegation of power is made by the State Government for the purpose of revenue recovery from the 'notified area'. In the absence of any special power being assigned or delegated to any authority for the revenue recovery in the notified area, it is reasonable to hold otherwise also that the power for revenue recovery shall continue to operate if in the urban area with the Collector and if in the Panchayat area with the District Development Officer, irrespective of the fact that whether such area or part thereof is declared as 'industrial area' or 'notified area' under section 16 of the GIDC Act or not.

9. In view of the above, since the area is falling within the limits of District Development Officer for the purpose of Revenue Recovery, the respondent No. 1 District Development Officer, Surat District, is directed to execute the aforesaid two Recovery Certificates issued by the Labour Court which are at Annexure 'B' in both the petitions for the recovery of the amounts mentioned therein with other consequential amounts, and he shall initiate and complete the recovery as early as possible, preferably within a period of three months from the date of receipt of this order.

10. Rule made absolute to the aforesaid extent in both the petition. Considering the facts and

circumstances, no order as to costs.

[JAYANT PATEL, J.]

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